IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.6243 of 1999

Dated: 20-04-2007

Between:

D. Mohan Kumar, s/o late V.D. Jayaraj,
R/o Door No.15-244B,
John Garden, Palamaner Road,
Chittoor Town and Mandal,
Chittoor District.

... Petitioner

and

1. The Joint Collector,
   Chittoor,
   Chittoor District and 3 others.

... Respondents

ORDER:

Heard learned counsel for the parties.

2. Petitioner states that his father had occupied a piece of land in an extent of Ac.1-18 cents in Sy.No.206/1 situated at Iruvaram revenue village, Chittoor Revenue Mandal and brought the same under

cultivation. Recognizing his possession and after conducting an enquiry, the then Tahasildar of the erstwhile Chittoor Taluk assigned the said land in favour of his father in the year 1976. His father, who had been cultivating the said land by raising dry crops like groundnut etc. passed away in the year 1990 and ever since he has been in possession and enjoyment of the said land along with his younger brother and he has also been raising groundnut crops in the said land. While so, he received a notice dated
27-03-1998 issued by third respondent in the name of his father, under the provisions of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977, (for short, 'the Act') to show cause as to why he should not be evicted from the said land and further why the Government should not take possession of the said land, stating that the assigned land was not brought under cultivation within a period of 3 years from the date of assignment either by the assignee himself or by his family members and that the land is not being used for agricultural purpose and the same is being utilized for non-agricultural purpose. To the said notice,
he submitted a detailed explanation to third respondent on 03-04-1998. Thereupon, third respondent passed an order in Roc. (F)368(10)/98, dated 15-04-1998 cancelling the Darakastu patta granted in favour of his father. Questioning the said order, the present writ petition has been filed.

3. Despite the fact that notices are served, respondents have not chosen to file any counter affidavit. Hence, this Court has no option except to accept the contentions put forth by learned counsel for petitioner.

4. As according to petitioner the land in question was assigned

and a Darakastu patta was granted in favour of his father, as early as in the year 1976, which is not in dispute, this Court is of the view that initiating proceedings in the year 1998 i.e. after lapse of about 22 years is not warranted. No doubt, the Board Standing Orders does not prescribe any limitation, but it does not mean that the authorities can initiate proceedings at any time at their sweat, will and pleasure. In fact, in one of the cases i.e. in **P. ANASUYAMMA v. COMMISSIONER OF LAND REVENUE**[1], this Court held that though no limitation is prescribed under the Board Standing Orders, the initiation of proceedings after 12 years is unreasonable and inequitable. Hence, this Court is of the view that the said cancellation of the DKT patta by order dated 15-04-1998 is illegal.

5. Accordingly, the writ petition is allowed and the order dated 15-04-1998 cancelling the DKT patta in respect of the father of petitioner is hereby quashed. No costs.

JUSTICE GOPALAKRISHNA TAMADA

Dt.20-04-2007
GLV

[1] 1994(2) ALT 329